

PROCEEDINGS OF THE COMMON COUNCIL  
IN REGULAR SESSION SESSION  
TUESDAY, JANUARY 11 , 1994

CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE  
COUNCIL CHAMBERS Tuesday EVENING January 11, 1994,  
IN Regular SESSION. PRESIDENT Donald J. Schmidt  
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine, AND  
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE  
FOLLOWING MEMBERS \_\_\_\_\_ VIZ:

BRADBURY P, EDMONDS P, GIAQUINTA P,  
HENRY P, LONG P, LUNSEY P,  
RAVINE P, SCHMIDT P, TALARICO P,

ABSENT: \_\_\_\_\_

COUNCILMEMBER: \_\_\_\_\_

THE MINUTES OF THE LAST REGULAR December, 1994

19\_\_\_\_\_,

SPECIAL \_\_\_\_\_, 19\_\_\_\_\_,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,  
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 11th day of January, 1994, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 13th day of January, 1994.

Sandra E. Kennedy  
City Clerk



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

December 29, 1993

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-93-12-19

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
29th day of December 1993.

Council action on this  
recommendation must take  
place prior to:  
March 29, 1994

Robert Hutner  
Secretary

/pb

CC: File

An Equal Opportunity Employer  
One Main Street, Fort Wayne, Indiana 46802

**FACT SHEET**

Z-93-12-19

BILL NUMBER

**Division of Community  
Development & Planning**

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From R-1 to B-4		

DETAILS	POSITIONS	RECOMMENDATIONS
Specific Location and/or Address  1121 Goshen Rd	Sponsor	City Plan Commission
Reason for Project  Used car sales lot.	Area Affected	City Wide  Other Areas
Discussion (Including relationship to other Council actions)  <u>20 December 1993 - Public Hearing</u>  See Attached Minutes of Meeting  <u>27 December 1993 - Business Meeting</u>  Motion was made and seconded to return the ordinance to the Common Council with a DO-PASS recommendation.  Of the nine (9) members present, seven (7) voted in favor of the motion, one (1) voted against the motion, one (1) did not vote. Motion carried.	Applicants/ Proponents	Applicant(s) H J & Mabel V Trimble City Department  Other
	Opponents	Groups or Individuals Yvonne Reader, with the Lincoln Pk Association  Basis of Opposition -rezoning would have a negative effect on the residential quality of life in the area
	Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against  Reason Against -approval could have a negative effect on the residential character of the area
	Board or Commission Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken  <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
	CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

## DETAILS

## POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

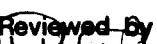
Date 15 November 1993

Projected Completion or Occupancy

Date 29 December 1993

Fact Sheet Prepared by  
Patricia Biancaniello

Date 29 December 1993

Reviewed by  


Date 4 January 1994

Reference or Case Number  


a. Bill No. Z-93-12-19 - Change of Zone #554  
From R-1 to B-4  
1121 Goshen Road

Ralph Blume, attorney for the petitioners Mr. & Mrs. Trimble appeared before the Commission. Mr. Blume stated that they are requesting the change in order to use the property for a used car sales lot. He stated that a used car sales lot does not require a B-4 zoning, but a B-3-B, a less dense classification. He stated that they have asked for the B-4 zoning in order to remain consistent with the rest of the property that this parcel is a part of and the properties on Goshen Road. He stated that this parcel is only 55' x 40'. He stated that the petitioners own lot #3 which extends from the subject property all the way to Goshen Road. He stated that this was purchased as one parcel. He stated that when these lots were subdivided that part of the residential lot was attached to the frontage on Goshen Road, more than likely to give the lot more depth. He stated that on one side of this property is a Monty's Drive In and the other side is McDonald's Restaurant. He stated that they are wedged in between two fast food operations. He stated that Mr. Trimble would like to use that portion to be rezoned to put his office on and have the car display to the front of the lot. He stated that this is a lesser use than the restaurants that are on either side of the property, and as such, would have a lesser impact on the R-1 areas. He stated that the problem is that if the property is not rezoned this property would be landlocked. Mr. Trimble does not own the property that fronts on Ethel Street. The only access to this property is from the B-4 property off of Goshen Road. He stated that they are trying to do something that appears to be logical from a sense that they do not want to abandon this piece of property. He stated that this property is too small to build a home on per city specifications. He stated that Mr. Trimble would be willing to put in some type of buffer between the property and the residential properties to the south. He stated that he felt a used car lot was a much less intrusive use than drive in restaurants which are open long hours and have a high traffic volume. Mr. Blume stated that he had two letters to present to the Commission. One from the Lincoln Park Homeowners Association indicating that they have no objection to the rezoning as long as there is no business on Ethel Avenue. He stated that they also had a letter from Rosie O'Grady who is an officer of the Association saying she was confused by the fact that the sign was on the wrong property.

Don Schmidt asked why this piece of Lot #4 was included in the sale.

Mr. Blume stated that he does not know the history of the property. He stated that he was under the impression that perhaps it was added in order to give the property more depth.

Don Schmidt questioned if the remainder of Lot #4, the 40' x 95' portion was unimproved.

Mr. Blume stated that it was unimproved.

Mel Smith questioned what was located on Lot #3.

Mr. Blume stated that it is currently vacant.

Mel Smith questioned Mr. Blume if he had stated that both lots were purchased at the same time.

Mr. Blume stated that they were. It was the only way Mr. Trimble could purchase the property. Mr. Blume stated that he did not feel, even if someone purchased this portion of Lot #4, that the property would be developed as a single family residence. He did not feel anyone would want to build a home with a fast food restaurant as a neighbor.

Yvonne Reader, Board Member of the Lincoln Park Association appeared before the Commission. Ms. Reader stated that the main thrust of the association is to maintain the residential quality of the neighborhood. She stated that they have built a 5 acre park with a pavilion with the association's money. She stated that they have worked very hard to keep the residential quality of the neighborhood. Ms. Reader stated that she felt this property should at the very least be a buffer zone between the B-4 properties.

Mel Smith read a letter into the record from a Max & Shirley High, 2808 Stanford Avenue in opposition to the proposed rezoning.

Ralph Blume stated in rebuttal that the damage has been done in this area and that they are only trying to salvage a piece of property. He stated that he would be surprised that this rezoning is going to change the whole course of the neighborhood. He stated that was done years ago when McDonald's was put there and the other drive in restaurant on the corner.

Don Schmidt questioned if the property is too small for residential use what else does the staff expect to have happen with this property.

Wayne O'Brien, Planner II, with the C&ED stated that when the lot was split in half, it made both portions of lot #4 under sized and unable to meet the minimum lot requirements for residential development. He stated that staff would not consider either portion of Lot #4 to be suitable for building as a residential property. He stated that the concern is that if the Plan Commission and City Council would allow this rear portion of Lot #4 to be used commercially it would cause a domino effect in the area. He stated that something would have to be done with the front portion of Lot #4 and more than likely we would see it as someone wanting to come in and do something commercial. He stated that if that were to happen and the front portion of Lot #4 zoned commercially the only access would be from Ethel Avenue.

Don Schmidt questioned if this lot is too small for residential

development is it also too small for commercial development.

Mr. O'Brien stated that there is no minimum requirement for lot size for commercial development, only for residential uses.

Mr. Schmidt stated that he felt that the staff recommendation was stating that who ever owns the two lots (creating by subdividing Lot #4) is deemed forever with property that cannot be used.

Mr. O'Brien stated that he felt that their recommendation to the property owners is that the property needs to be rejoined so it can be used as a single family residence.

Mr. Schmidt questioned if staff actually believed that someone would build a single family residence on that property.

Mr. O'Brien stated that he felt that the neighborhood has shown a lot of pride in the way that the homes have been maintained. It stated that it clearly is not the \$100,000 or \$200,000 home area that we hear so much about, but it is good and very substantial building stock. He stated that close to Goshen Road there is extremely good access to the north or south. He stated that his personal opinion is that someone could use that property as residential. He stated that if no one would choose to do that, then he felt the lot should be left as an open area buffer.

Mr. Schmidt asked how many 40 foot lots there were in this area.

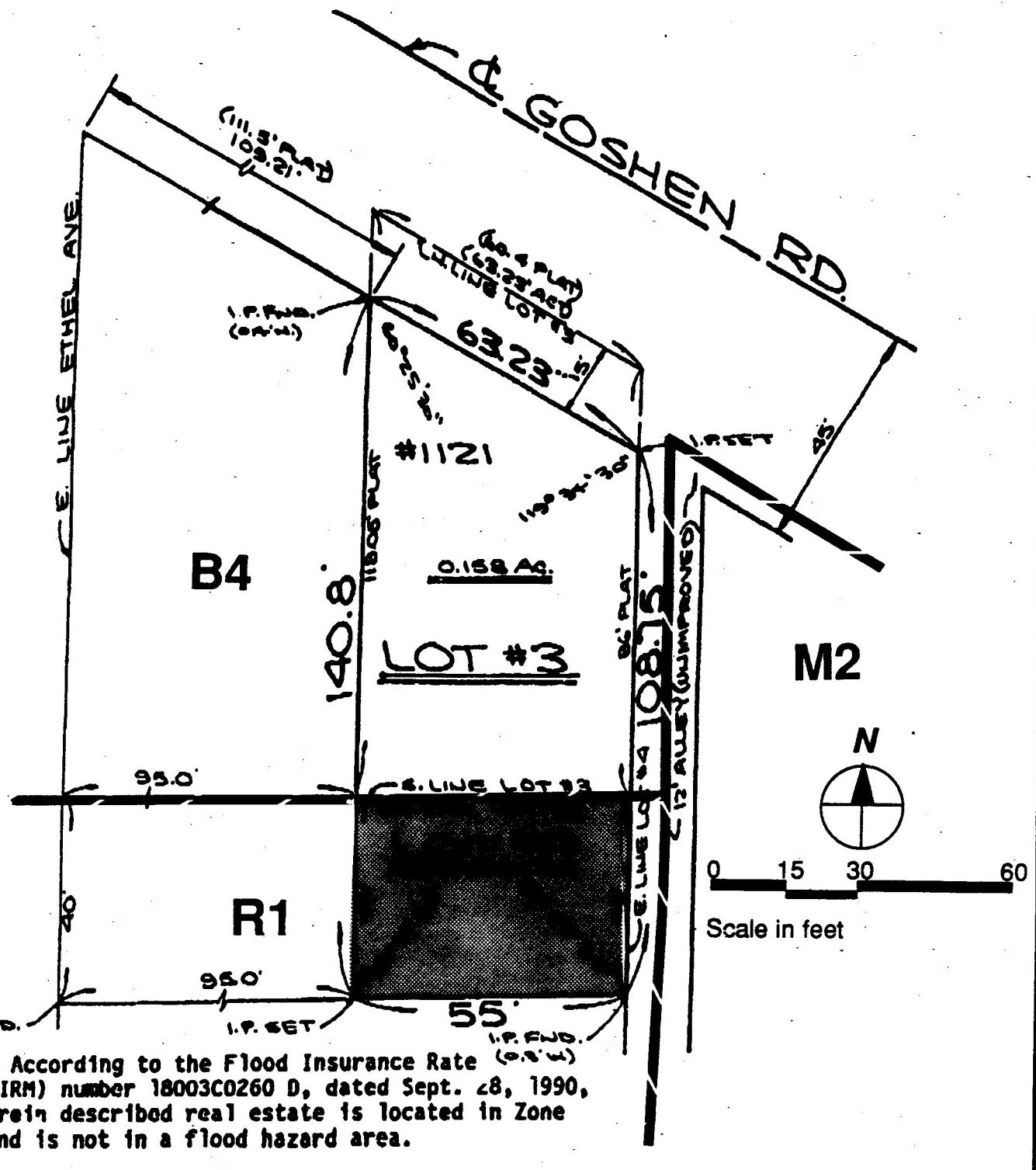
Mr. O'Brien stated that he would imagine most of the lots in the area are 40 foot wide. Mr. O'Brien stated that the lot before being divided was 40' by approximately 150' and would yield enough lot area for residential development.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

# REZONING PETITION

AREA MAP

CASE NO. #554



COUNCILMANIC DISTRICT NO. 3

Map No.: K-18  
LW 11-22-93

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District	IA	Interchange Access

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on December 14, 1993 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-93-12-19; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on December 20, 1993.

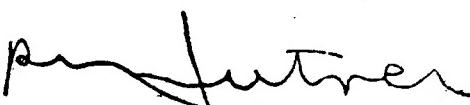
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held December 27, 1993.

Certified and signed this  
29th day of December 1993.

  
Robert Hutner  
Secretary

Ralph Blume, attorney for H. J. and Mabel V. Trimble, request a change of zone from R-1 to B-4.

Location: 1121 Goshen Road

Legal: E 55' of Lot #4 Hughes Addition

Land Area: Approximately 0.05 acres

Zoning: R-1

Surroundings:	North	B-4	Mixed
	South	R-1	Residential
	East	M-2	Commercial
	West	B-4	Commercial

Reason for Request: Used car sales lot

Neighborhood Assoc.: Lincoln Park Homeowners

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the comprehensive plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal of the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

Landscape: As B-4 permits a number of uses which are not compatible with the R-1 single family uses to the south, and as the use for this site is not currently developed, it would be inappropriate to rezone this parcel and intrude further into a residential area without a proposal to provide a noise and view barrier appropriate to the eventual use.

#### Planning Staff Discussion:

The Goshen Road corridor frontage has been developed commercially, while attempting to preserve residential neighborhoods. In this particular case, there is a McDonalds located immediately east, with another "fast-food" type restaurant to the immediate west. The area to the south, off of Ethel Avenue is single family residential.

Ethel Avenue is a typical residential street and does not appear to meet the design characteristic of commercial development.

Staff has a number of concerns with this proposal. First of all, the sale of the rear portion of lot #4 reduces the lot to 95' X 40' which is only 3,800 Sq. Ft., well below the minimum lot requirements for residential use. While this is a self imposed "hardship", it would probably prevent the remaining portion of the lot from being developed without approval by the Board of Zoning Appeals. If this petition is approved, it would increase the potential that the front portion of this lot would seek rezoning and commercial use.

The second concern is the potential impact of non-residential zoning on the established neighborhood. The Goshen Road frontage is obviously suitable for commercial development, and carries a relatively high volume of traffic. The concern is simply one of determining the depth to which commercialization should be allowed. Lots 1, 2 and 3 were platted with frontages along Goshen Road, the remaining lots in this addition were platted with frontages along Ethel Avenue. The nearest intersecting street is over 900 feet to the south.

The next concern is the compatibility of intense commercial uses on established residential. Obvious concerns are noise, visual impacts, and overall impacts on quality of life issues. The requested B-4 classification is the most intense commercial designation. The designation does not offer any opportunity for site mitigation measures such as landscape buffering and screening. Additional concerns raised include existing elevations and potential drainage problems. This lot has a significant grade difference from the north to the south. Approval would allow development which in turn would amplify existing drainage problems.

With the potential negative impacts that approval could have on the residential area to the south, we would recommend that the Plan Commission consider denial of this petition. The front portion of this property is currently zoned for commercial uses, and there are other similarly zoned parcels in the general area.

Recommendation: Do Not Pass for the following reasons:

- 1) Approval could lead to deterioration of the residential area to the south.
- 2) Approval could negative impact the quality of life of the residential property to the south.
- 3) Approval would result in commercial intrusion which does not appear to represent responsible development or growth.